

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Michael R. O’Gorman,

Complainant,

vs.

AT&T Broadband Phone of California, LLC,

Defendant.

Case 02-08-033
(Filed August 26, 2002)

**ADMINISTRATIVE LAW JUDGE’S RULING
GRANTING MOTION FOR LEAVE TO FILE LATE-FILED ANSWER,
DENYING MOTION TO DISMISS, AND SETTING
TELEPHONIC PREHEARING CONFERENCE**

This ruling grants AT&T Broadband Phone of California, LLC’s (AT&T Broadband) motion for leave to file late-filed answer. AT&T Broadband is submitting its answer late, because it failed to timely acknowledge receipt of the complaint and because it attempted to settle the complaint with Complainant. Complainant sent a letter to AT&T Broadband on October 21, 2002 opposing a late-filed answer, because the failure to timely acknowledge his complaint is indicative of the problems he has had with the company. The Commission relies on defendants’ answers in its resolution of complaints. No purpose would be served by denying leave to answer when, as here, the defendant admits it failed to act promptly but intends to participate in the resolution of this matter.

This ruling denies AT&T Broadband’s motion to dismiss. AT&T Broadband asserts that the Commission cannot provide further relief, because

AT&T Broadband routed Complainant's local toll calls to Cable & Wireless once Cable & Wireless provided AT&T Broadband with the required codes. AT&T Broadband also concurs with Complainant that it is obligated to route Complainant's intraLATA toll calls to his carrier of choice. AT&T Broadband's concurrence with Complainant's position appears to resolve the primary issue presented in the complaint. However, Complainant alleges that Cable & Wireless did not have to enter into a separate agreement with AT&T Broadband in order for AT&T Broadband to route Complainant's calls to Cable & Wireless. Complainant has placed disputed amounts in an impound account with the Commission. Disposition of those amounts appears to be the sole remaining issue.

Complainant does not want a hearing. This ruling schedules a telephonic prehearing conference (PHC) on December 10, 2002, at 1:30 p.m. The parties are directed to meet and confer in advance of the PHC to discuss whether the actions of Cable & Wireless are disputed and whether they can reach an agreement on disposition of the amount Complainant deposited with the Commission.

Parties may be connected to the telephonic prehearing conference by calling 877-675-5901; passcode is GRAU and leader of the conference call is ALJ Janice Grau.

Parties desiring expedited or daily transcripts should advise the Chief Hearing Reporter by telephone at (415) 703-2288, no later than three days prior to the first day of hearing.

If you have questions about the hearing date, time, or place, call the Calendar Clerk at (415) 703-1203.

IT IS RULED that:

1. AT&T Broadband Phone of California, LLC's (AT&T Broadband) motion for leave to file its late-filed answer is granted.
2. AT&T Broadband's motion to dismiss is denied.
3. A telephonic prehearing conference (PHC) is set for December 10, 2002, at 1:30 p.m.
4. Complainant and AT&T Broadband are directed to meet and confer in advance of the PHC as set forth in this ruling.

Dated November 22, 2002, at San Francisco, California.

/s/ JANICE GRAU

Janice Grau
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion for Leave to File Late-Filed Answer, Denying Motion to Dismiss, and Setting Telephonic Prehearing Conference on all parties of record in this proceeding or their attorneys of record.

Dated November 22, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.